
(2008) 02 P&H CK 0313
In the Punjab And Haryana At Chandigarh

Commissioner of Income Tax	Vs	APPELLANT
Ramneet Singh		RESPONDENT

Date of Decision : 13-02-2008

Acts Referred:

Income Tax Act, 1961 — Section 260A

Citation : (2008) 306 ITR 267 : (2010) 189 TAXMAN 263

Hon'ble Judges : Satish Kumar Mittal, J;Rakesh Kumar Garg, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The instant appeal filed by the Revenue u/s 260A of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), is directed against the order dated November 3, 2006, passed by the Income Tax Appellate Tribunal, Delhi Bench "E", Delhi (hereinafter referred to as "the ITAT"), in I.T.A. No. 4878/Delhi/2004, in the case of the respondent for the assessment year 1997-98, by raising the following substantial questions of law:

(i) Whether, on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was right in law in upholding the order of the Commissioner of Income Tax (Appeals) in deleting the addition of Rs. 1,53,500 on account of unexplained cash credits?

(ii) Whether, on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was right in law in upholding the order of the Commissioner of Income Tax (Appeals) in deleting the addition of Rs. 1,00,000 made by the Assessing Officer, on account of unexplained investment in purchase of a bus?

(iii) Whether, on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was right in law in upholding the order of the Commissioner of Income Tax (Appeals) in deleting the addition of Rs. 3,87,696 made by the Assessing Officer, on account of unexplained loans shown in the

names of M/s. Tata Finance Co. and M/s. Super Travels by entertaining additional evidence, which was not produced before the Assessing Officer during the assessment proceedings contrary to the provisions of Rule 46A of the Income Tax Rules?

(iv) Whether, on the facts and circumstances of the case, the order passed by the learned Income Tax Appellate Tribunal dated November 3, 2006, is perverse as the findings recorded are contrary to evidence on record?

(v) Whether, on the facts and circumstances of the case, the order passed by the learned Income Tax Appellate Tribunal is legally sustainable in the eyes of law as no reasons whatsoever have been recorded while dismissing the appeal of the Revenue?

2. In the present case, the Assessing Officer, while framing the assessment of the assessee made certain additions on different grounds. Subsequently, the assessee filed an application for rectification. While allowing the said application, some of the additions were deleted. Thereafter, feeling aggrieved against the remaining additions made by the Assessing Officer, the assessee filed appeal before the Commissioner of Income Tax (Appeals), Karnal (hereinafter referred to as "the CIT(A)"), who, vide his order dated September 14, 2004, while deleting the said additions, came to the conclusion that the documents relating to the loans were produced by the assessee before the Assessing Officer during rectification proceedings, but the same were not considered on the ground that there is no mistake apparent on the record. Against the said order, the Revenue filed appeal before the Income Tax Appellate Tribunal, raising the following grounds:

(i) On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in law in deleting the addition of Rs. 1,53,500 on account of unexplained cash credits as the assessee failed to produce the alleged creditors before the Assessing Officer in spite of being given opportunity and the identity of the creditors remained unproved.

(ii) On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in law in deleting the addition of Rs. 1,00,000 made by the Assessing Officer on account of unexplained investment in purchase of a bus.

(iii) On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in deleting the addition of Rs. 3,87,696 made on account of unexplained loans shown in the names of M/s. Tata Finance Co., and M/s. Super Travels by entertaining additional evidence which was not produced before the Assessing Officer during the assessment proceedings contrary to the provisions of Rule 46A of the Income Tax Rules.

3. Regarding ground No. 1, the Income Tax Appellate Tribunal has affirmed the order of the Commissioner of Income Tax (Appeals) while observing that the

creditors were produced and their statements were recorded and in their statements, the creditors have confirmed having advanced loans to the assessee. It was held that in view of this material, the Assessing Officer was not justified in making addition of Rs. 1,53,500 on account of unexplained cash credits. Regarding ground No. 2, it was observed that the Assessing Officer estimated the value of vehicles like bus, mini bus, etc., at Rs. 11 lakhs as against Rs. 10 lakhs offered by the assessee, without there being any basis to arrive at such conclusion. Therefore, it was found that the Commissioner of Income Tax (Appeals) was fully justified in deleting the addition of Rs. 1 lakh on that account. Regarding ground No. 3, it was observed that the assessee has produced sufficient documents during the appellate proceedings to show that the loan shown in the name of M/s. Tata Finance Co. and M/s. Super Travels has been received from these parties, therefore, there was no justification to add this amount on account of unexplained loans.

4. In our opinion, in this appeal, no substantial question of law is arising, as the Income Tax Appellate Tribunal has affirmed the finding of fact recorded by the Commissioner of Income Tax (Appeals), while taking into consideration the material available on the record. Therefore, we do not find any ground to interfere in this appeal.

Dismissed.